

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

Donald Edward Pryor,

Case No. 3:08CV994

Plaintiff

v.

ORDER

United States Attorney General, et al.,

Defendants

This is a pro se civil suit in which, following dismissal *sua sponte* of several defendants, several motions are pending. My rulings on the motions, and reasons, where same need to be expressed] are as follows.

1. Plaintiff's motion to recuse. [Doc. 3]. Plaintiff seeks my recusal in the event that I am related to one Jill Carr. I am not. Plaintiff's motion to recuse shall be denied.

2. Plaintiff's "motion and opinion" [Doc. 5], which shall be deemed a motion to amend. This pleading appears to express plaintiff's disagreement with this Court's earlier order of dismissal of several of his claims. To the extent it seeks any relief, it asks for leave to amend his complaint. [¶ 29].

Rule 15(a) of the Federal Rules of Civil Procedure permits a party amend a pleading prior to the filing of an answer or other responsive pleading. An answer having been filed by one of the defendants [Doc. 15], the plaintiff cannot amend his complaint as a matter of course without prior leave to do so.

Here, as in *Stewart v. Classickle, Inc.*, 2007 WL 2908751, *1 (W.D.Ky.), “Plaintiff did not attach a copy of his proposed amendment to his motion, and the Court is unsure what claims he is seeking to amend.” Though, as in that case, that failure to requires dismissal, *See, e.g., Lapine v. Atterberry*, 2006 WL 2583121, *2 (E.D.Mich.) (“Because Plaintiff failed to attach a copy of the proposed amended complaint, Plaintiff’s motion to amend complaint shall be denied.”).

However, as likewise in *Stewart, supra*, “Plaintiff may renew his motion, but must state as concisely as possible why he seeks to amend his complaint and must include a copy of the amended complaint with his motion. Plaintiff is instructed that any proposed amended complaint must conform to the pleading requirements set forth in Fed.R.Civ.P. 8(a).”

Plaintiff’s motion to amend, shall, accordingly, be denied without prejudice.

3. Plaintiff’s motion for appointment of counsel. [Doc. 16]. There being no authority or requirement, despite plaintiff’s recitation of 28 U.S.C. § 1915, plaintiff’s motion for appointment of counsel shall be denied. Such denial shall, however, be without prejudice to plaintiff’s right to renew in the event any of his claims survive motions to dismiss or otherwise appear to have such potential merit to warrant possible assignment of this case to a member of this court’s *pro bono* panel. Such assignment is contingent not on the plaintiff’s desire for counsel nor his assertion of financial inability to retain counsel; assignment depends, rather on this court’s discretion to seek an attorney willing to accept representation of the plaintiff *pro bono publico*, and the willingness of such attorney to accept the assignment.

If some or all of the remaining portions of plaintiff’s complaint survive motions to dismiss, he may renew his request for assignment of counsel.

4. Plaintiff’s motion for delay, tabling, removal or appeal of this Court’s initial order of dismissal. [Doc. 17]. This motion appears to be, in effect, a motion for reconsideration of my initial

order dismissing several of plaintiff's claims. There is no merit to his objections to that order or motion that it be "tabled," "removed," or "appealed."

5. Plaintiff's motion for an extension of time to respond to pending motions to dismiss. [Doc. 20]. Plaintiff shall be granted leave to file his opposition[s] to pending motions on or before October 1, 2008. Defendants to reply by October 15, 2008, at which time said motions shall be decisional.

It is, therefore,

ORDERED THAT:

1. Plaintiff's motion to recuse {Doc. 3} be, and the same hereby is denied;
2. Plaintiff's motion to amend his complaint [Doc. 5] be, and the same hereby is denied, without prejudice;
3. Plaintiff's motion for appointment of counsel [Doc. 16] be, and the same hereby is denied, without prejudice to renew as stated herein;
4. Plaintiff's motion for delay, tabling, removal or appeal of this Court's initial order of dismissal [Doc. 17] be, and the same hereby is denied; and
5. Plaintiff's motion for extension of time [Doc. 20] be, and the same hereby is granted; plaintiff to file opposition[s] to pending dispositive motions by October 1, 2008; defendants to reply by October 15, 2008.

So ordered.

/s/ James G. Carr
Chief Judge